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In re Application of : **OFFICE OF PETITIONS**
Ronca et al. :
Application No. 10/827203 :
Filing or 371(c) Date: 04/19/2004 : **ON PETITION**
Attorney Docket Number: :
0307090.0123 :
:

This is a decision in response to the petition to expunge part of original disclosure (M.P.E.P. § 724.05 IV, 37 C.F.R. § 1.183), filed October 5, 2007. The petition is properly treated as petitions under 37 CFR §§ 1.59 (to expunge), and 1.183 (requesting waiver of one of the requirements explicitely set forth in 37 CFR 1.59(a), to wit – requesting expungement of part of the roignal disclosure). The delay in treating this petition is regretted.

This Petition under 37 C.F.R. § 1.59 is hereby **granted**.

This Petition under 37 C.F.R. § 1.183 is hereby **granted to the extent noted below**.

Petitioner asserts that the drawings as-filed with the application contain proprietary information and, as such, seeks replacement of the original drawings with a set of drawings filed September 28, 2007.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

- (A) the Office can effect such return prior to the issuance of any patent on the application in issue¹;
- (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

¹ The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. The image of the recorded document will be "closed" from view, but will remain in the records of the Office.

- (C) the information has not otherwise been made public;
- (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
- (F) the petition fee as set forth in 37 CFR 1.17(g) is included.

In addition to the above requirements, a petition to expunge part of the original disclosure must include:

- (1) a petition under 37 CFR 1.183, requesting waiver of the requirements of 37 CFR 1.59(a);
- (2) a showing demonstrating that justice requires waiver of the rules to permit the requested material to be expunged, and
- (3) the required petition fee (37 CFR 1.17(f)).

The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. Even if a petition to "expunge" a document is granted with respect to a particular application or patent, the image of the recorded document will remain in the records of the Office. The Office will, however, "close" the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

The Office will replace the originally-filed drawings with the drawings filed September 28, 2007.

Finally, the address given on the petition differs from the address of record. The application file does not indicate a change of address has been filed in this case,. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being referred to the Office of Patent Application Processing for correction of the PTO archival record.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


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